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CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

BY: *EC* DEPUTY

1 JOHN M. MCCOY III, Cal. Bar No. 166244

E-mail: mccoyj@sec.gov

2 FINOLA H. MANVELIAN, Cal. Bar No. 180681

Email: manvelianf@sec.gov

3 JESSICA R. PUATHASNANON, Cal. Bar No. 208074

E-mail: puathasnanonj@sec.gov

4 WILLIAM G. BERRY, Cal. Bar No. 206348

E-mail: berryw@sec.gov

5 Attorneys for Plaintiff

6 Securities and Exchange Commission

Rosalind R. Tyson, Regional Director

7 Andrew G. Petillon, Associate Regional Director

5670 Wilshire Boulevard, 11th Floor

8 Los Angeles, California 90036-3648

Telephone: (323) 965-3998

9 Facsimile: (323) 965-3908

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12 **UNITED STATES DISTRICT COURT**
13 **SOUTHERN DISTRICT OF CALIFORNIA**

14
15 **SECURITIES AND EXCHANGE**
16 **COMMISSION,**

17 Plaintiff,

18 vs.

19 **JERRY L. BURDICK,**

20 Defendant.
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Case No.

'08 CV 1390 JAH JMA

**COMPLAINT FOR VIOLATIONS
OF THE FEDERAL SECURITIES
LAWS**

CE

1 Plaintiff Securities and Exchange Commission (the "Commission") alleges
2 as follows:

3 **JURISDICTION AND VENUE**

4 1. This Court has jurisdiction over this action pursuant to Sections 20(b),
5 20(d)(1), and 22(a) of the Securities Act of 1933 ("Securities Act"), 15 U.S.C.
6 §§ 77t(b), 77t(d)(1), and 77v(a), and Sections 21(d)(1), 21(d)(3)(A), 21(e), and 27
7 of the Securities Exchange Act of 1934 ("Exchange Act"), 15 U.S.C. §§ 78u(d)(1),
8 78u(d)(3)(A), 78u(e) and 78aa. Defendant has directly or indirectly made use of
9 the means or instrumentalities of interstate commerce, of the mails, or of the
10 facilities of a national securities exchange in connection with the transactions, acts,
11 practices and courses of business alleged in this Complaint.

12 2. Venue is proper in this district pursuant to Section 22(a) of the
13 Securities Act, 15 U.S.C. § 77v(a), and Section 27 of the Exchange Act, 15 U.S.C.
14 § 78aa, because defendant resided within this district during the relevant time
15 period and certain of the transactions, acts, practices and courses of conduct
16 constituting violations of the laws alleged in this Complaint occurred within this
17 district.

18 **SUMMARY**

19 3. This case involves financial fraud at SeraCare Life Sciences, Inc.
20 ("SeraCare") by its former director and interim chief financial officer, Jerry L.
21 Burdick ("Burdick").

22 4. SeraCare was based in Oceanside, California during the relevant time
23 period and operates as a supplier and manufacturer of biological products (such as
24 blood and plasma) for the biotechnology and pharmaceutical industry.

25 5. SeraCare misstated its financial statements by inflating income before
26 taxes for the second and third quarters of fiscal year 2005 by 20% and 17%,
27 respectively, as a result of Burdick's improper release of general inventory
28 reserves.

1 6. Following a major acquisition by SeraCare in September 2004,
2 Burdick created a general inventory reserve account in connection with acquired
3 inventory. Burdick manipulated these general inventory reserves in the second and
4 third quarters of 2005, causing SeraCare's net income before taxes to be inflated
5 by approximately 20% in the second quarter and about 17% in the third quarter of
6 2005, as reported in its Form 10-Q for the second quarter ended March 31, 2005
7 ("SeraCare's 2005 Second Quarter Form 10-Q") and in its Form 10-Q for the third
8 quarter ended June 30, 2005 ("SeraCare's 2005 Third Quarter Form 10-Q").

9 7. The misleading financial statements from SeraCare's 2005 Second
10 Quarter Form 10-Q were also included in a Form S-1 registration statement filed
11 by SeraCare on May 11, 2005 in connection with the offering of three million
12 shares of SeraCare's common stock.

13 8. As SeraCare's interim chief financial officer, Burdick signed and
14 certified SeraCare's 2005 Second Quarter Form 10-Q and was substantially
15 involved in the preparation and filing of SeraCare's 2005 Third Quarter Form 10-
16 Q. Burdick knew, or should have known, that both filings were materially
17 misleading.

18 9. Burdick also made, or caused to be made, material misrepresentations
19 to SeraCare's auditors during the 2005 audit. First, he created and backdated a
20 letter that was given to the auditors as support for recognizing revenue on an
21 almost \$1 million sale before the close of the 2005 fiscal year. Second, during the
22 same audit, Burdick provided SeraCare's auditors with an increased inventory
23 valuation without any documented or verifiable support.

24 10. Burdick aided and abetted SeraCare's uncharged violations of Section
25 13(a) and 13(b)(2)(A) of the Exchange Act and Rules 12b-20 and 13a-13
26 thereunder. Burdick also violated Rules 13a-14, 13b2-1, and 13b2-2 of the
27 Exchange Act and Section 17(a)(2) and (3) of the Securities Act.

28 //

DEFENDANT

11. Defendant Jerry L. Burdick is a resident of Westlake Village, California. Burdick served as a director on SeraCare's board until his resignation in May 2007. He also served as SeraCare's interim chief financial officer from February 2005 through May 2005. Burdick obtained his CPA license in California in 1964 and his license lapsed in 1997.

RELEVANT ENTITY

12. SeraCare Life Sciences, Inc. is a Delaware corporation that is currently based in West Bridgewater, Massachusetts. During the relevant time period, SeraCare's principal headquarters were in Oceanside, California and its common stock was registered pursuant to Section 12(g) of the Exchange Act and listed on the Nasdaq National Market. From at least 2004 through at least March 2006, SeraCare's fiscal year ended on September 30.

FACTUAL ALLEGATIONS**A. Burdick's Manipulation of SeraCare's Inventory Reserves**

13. Approximately two weeks before the end of fiscal year 2004, SeraCare acquired substantially all of the assets of Boston Biomedica, Inc. ("BBI") for about \$30 million.

14. When SeraCare acquired BBI in September 2004, it also acquired BBI inventory valued at almost \$5 million. This valuation of inventory was premised on BBI's gross inventory at the time of the acquisition date reduced by its historical inventory reserve.

15. Following the BBI acquisition, Burdick added an additional reserve amount of almost \$2.5 million to the historical reserve for BBI's inventory, making the net inventory balance for BBI at the time of acquisition about \$2.5 million. Approximately \$1 million of this additional inventory reserve booked by Burdick was a general reserve for unspecified inventory items. Burdick subsequently directed the unsubstantiated release of these general inventory reserves in the

1 second and third quarters of fiscal year 2005 in violation of generally accepted
2 accounting principles ("GAAP").

3 16. During the first quarter of fiscal year 2005, the finance director of
4 SeraCare's BBI division manually allocated over \$283,000 of these additional
5 reserves to specific inventory items. In approximately March 2005, at Burdick's
6 direction, the BBI finance director took steps to automate the process so that the
7 current inventory reserve would be automatically applied to the associated specific
8 inventory line item. Once this allocation of inventory reserve was accomplished,
9 the approximate \$1 million of general inventory reserves that Burdick had created
10 remained on the books and unallocated to specific inventory items.

11 17. Burdick directed that approximately half of these general inventory
12 reserves be credited in the second quarter of SeraCare's 2005 fiscal year. As a
13 result, Burdick reduced SeraCare's cost of goods sold, thereby improving
14 SeraCare's income before taxes by approximately 20.4% in the second quarter of
15 fiscal year 2005.

16 18. Burdick directed that the remaining \$459,000 in general inventory
17 reserves be credited in the third quarter. As a result of this credit directed by
18 Burdick, SeraCare's cost of goods sold was reduced and its income before taxes
19 was inflated by approximately 17.3% in the third quarter of fiscal year 2005.

20 19. Burdick was substantially involved in preparing and reviewing
21 SeraCare's Forms 10-Q for the second and third quarters of 2005 before they were
22 filed. As SeraCare's interim CFO, Burdick approved, signed, and certified
23 SeraCare's 2005 Second Quarter Form 10-Q that was filed on June 30, 2005.

24 20. SeraCare's 2005 Second Quarter Form 10-Q and SeraCare's 2005
25 Third Quarter Form 10-Q were materially misleading because both filings reported
26 net income before taxes that was inflated as a result of Burdick's manipulation of
27 the general inventory reserve accounts that he created. This misleading financial
28 information was also reported in a Form S-1 registration statement filed by

1 SeraCare on May 10, 2005, which Burdick signed as SeraCare's acting CFO.

2 **B. Burdick's Misleading Statements To Auditors**

3 **1. Misrepresentations related to \$1 million sale in September 2005**

4 21. In September 2002, SeraCare, Wyeth Pharmaceuticals, and Instituto
5 Grifols entered into a supply agreement, whereby Grifols agreed to supply certain
6 product to Wyeth, with SeraCare serving as the distributor. Subsequently, in
7 January 2005, Wyeth licensed a Swedish company, Biovitrum AB, to manufacture
8 product with supplies from Grifols to be distributed by SeraCare under the 2002
9 supply agreement.

10 22. In June 2005, Biovitrum ordered approximately \$956,000 of product
11 from Grifols through SeraCare, which served as the distributor in accordance with
12 the contractual agreements between the parties. Accordingly, Biovitrum placed the
13 order with SeraCare, requesting a November 1, 2005 delivery date.

14 23. Pursuant to the underlying contractual agreements between the
15 parties, the sale was made under an "Ex Works" arrangement. Ex Works refers to
16 a set of sales terms in which the seller is only required to make the product
17 available and the buyer is responsible for handling the subsequent delivery. The
18 seller, however, is required under Ex Works to notify the buyer when and where
19 the product will be made available.

20 24. To comply with the Ex Works terms, SeraCare was required to notify
21 Biovitrum when and where the Grifols product would be ready for delivery.
22 Accordingly, following the June 2005 purchase order, representatives from
23 SeraCare and Biovitrum engaged in discussions regarding the logistics required for
24 the delivery of the Grifols product to Biovitrum. SeraCare's lead sales
25 representative for the deal left SeraCare shortly thereafter and the Biovitrum sale
26 was assigned to a newly promoted sales manager at SeraCare. Crowley directed
27 the new sales manager to make the product available for delivery before the end of
28 SeraCare's fiscal year on September 30, 2005.

1 25. No agreement, however, was ever made between SeraCare and
2 Biovitrum to change the timing of the delivery. In fact, Grifols expressly told
3 SeraCare that the product may not be available until October 2005.

4 26. By the end of the day on September 30, 2005, SeraCare had not
5 provided notice to Biovitrum as to when and where the product would be made
6 available or even whether the product was ready for pick-up and delivery. Instead,
7 on September 30, 2005, SeraCare's sales staff was busy trying to confirm how the
8 product would be delivered from Grifols to Biovitrum, even though delivery was
9 not SeraCare's responsibility under the Ex Works provision.

10 27. In spite of the fact that the conditions for a sale had not been met
11 under Ex Works, SeraCare's finance personnel provided documentation to
12 SeraCare's auditors that purported to support booking the revenue from the sale in
13 fiscal year 2005.

14 28. The documentation provided to the auditors to support the Biovitrum
15 revenue included a letter that Burdick created on October 4, 2005, which he
16 directed the new sales manager to sign. Burdick dated the letter September 29,
17 2005, addressed it to Biovitrum, and included a representation that the product was
18 available for delivery on September 27, 2005.

19 29. Burdick knew, or was reckless in not knowing, that this representation
20 was false because, according to the new sales manager who signed the letter at
21 Burdick's direction, Burdick was informed that on September 30, 2005, SeraCare's
22 sales staff was still working to make delivery arrangements for the product.

23 30. Burdick also knew, or was reckless in not knowing, that the backdated
24 letter would be presented to SeraCare's auditors because he was aware that the
25 auditors routinely reviewed such records during their normal audit process.
26 Indeed, during the normal course of the audit, the letter was presented to
27 SeraCare's auditors as support for the sale.

28 31. The revenue from the sale accounted for approximately 4% of

1 SeraCare's net income before taxes for SeraCare's 2005 fiscal year. This inflated
2 revenue was included in a draft Form 10-K that Burdick prepared and provided to
3 the auditors during the year-end audit.

4 **2. Inflated Valuation of Parvo Inventory**

5 32. Burdick also made false or misleading representations to SeraCare's
6 auditors regarding at least one inventory item, known as Parvo inventory.
7 Specifically, Burdick provided the auditors with an inventory valuation that was
8 increased by approximately \$2.00 per unit without any documented or verifiable
9 support.

10 33. In connection with the year-end audit, Burdick provided this increased
11 valuation data to SeraCare's auditors as the true and correct valuation for the Parvo
12 inventory.

13 34. Burdick's inflated inventory valuation was also included in the draft
14 2005 Form 10-K that Burdick prepared and provided to the auditors during the
15 year-end audit.

16 35. During a weekly meeting between SeraCare's auditors and senior
17 managers on or about December 13, 2005, SeraCare's auditors did not believe that
18 Burdick was able to adequately explain his valuation of the Parvo inventory. The
19 auditors also presented other records that reflected a reduced value. As a result,
20 Burdick and SeraCare's management agreed to an almost \$684,000 adjustment to
21 the Parvo inventory value.

22 36. This downward adjustment represented almost 3% of SeraCare's year-
23 end inventory, reducing by almost 7% SeraCare's net income before taxes as
24 reported by Burdick to the auditors in SeraCare's draft Form 10-K.

25 **FIRST CLAIM FOR RELIEF**

26 **FRAUD IN THE OFFER OR SALE OF SECURITIES**

27 **Violations of Section 17(a)(2) and (3) of the Securities Act**

28 37. The Commission realleges and incorporates by reference ¶¶ 1 through

36 above.

38. Defendant, by engaging in the conduct described above, directly or indirectly, in the offer or sale of securities by the use of means or instruments of transportation or communication in interstate commerce or by the use of the mails:

(a) obtained money or property by means of untrue statements of a material fact or by omitting to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; and

(b) engaged in transactions, practices, or courses of business which operated or would operate as a fraud or deceit upon the purchaser.

39. By engaging in the conduct described above, defendant violated, and unless restrained and enjoined will continue to violate, Section 17(a)(2) and (3) of the Securities Act, 15 U.S.C. § 77q(a).

SECOND CLAIM FOR RELIEF

VIOLATIONS OF COMMISSION PERIODIC REPORTING REQUIREMENTS

Violations of Section 13(a) of the Exchange Act, and Rules 12b-20 and 13a-13 thereunder

40. The Commission realleges and incorporates by reference ¶¶ 1 through 36 above.

41. SeraCare violated Section 13(a) of the Exchange Act and Rules 12b-20 and 13a-13 thereunder, by filing with the Commission materially false and misleading quarterly reports on Form 10-Q for the quarters ended March 31, 2005 and June 30, 2005.

42. Defendant knowingly provided substantial assistance to SeraCare's violation of Section 13(a) of the Exchange Act and Rules 12b-20 and 13a-13

1 thereunder.

2 43. By engaging in the conduct described above and pursuant to Section
3 20(e) of the Exchange Act, 15 U.S.C. § 78t(e), defendant aided and abetted
4 SeraCare's violations, and unless restrained and enjoined will continue to aid and
5 abet violations, of Section 13(a) of the Exchange Act, 15 U.S.C. § 78m(a), and
6 Rules 12b-20 and 13a-13 thereunder, 17 C.F.R. §§ 240.12b-20 and 240.13a-13.

7 **THIRD CLAIM FOR RELIEF**

8 **RECORD KEEPING VIOLATIONS**

9 **Violations of Section 13(b)(2)(A) of the Exchange Act**

10 **and Violations of Rule 13b2-1 thereunder**

11 44. The Commission realleges and incorporates by reference ¶¶ 1 through
12 36 above.

13 45. SeraCare violated Section 13(b)(2)(A) of the Exchange Act by failing
14 to make or keep books, records and accounts that in reasonable detail accurately
15 and fairly reflected its transactions and disposition of its assets.

16 46. Defendant knowingly provided substantial assistance to SeraCare's
17 violation of Section 13(b)(2)(A) of the Exchange Act.

18 47. By engaging in the conduct described above and pursuant to Section
19 20(e) of the Exchange Act, 15 U.S.C. § 78t(e), defendant aided and abetted
20 SeraCare's violations, and unless restrained and enjoined will continue to aid and
21 abet violations, of Section 13(b)(2)(A) of the Exchange Act, 15 U.S.C. §
22 78m(b)(2)(A).

23 48. By engaging in the conduct described above, defendant violated
24 Exchange Act Rule 13b2-1 by, directly or indirectly, falsifying or causing to be
25 falsified SeraCare's books, records, and accounts subject to Section 13(b)(2)(A) of
26 the Exchange Act. Unless restrained and enjoined, Burdick will continue to violate
27 Rule 13b2-1, 17 C.F.R. § 240.13b2-1.

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FOURTH CLAIM FOR RELIEF

FALSE CERTIFICATION

Violations of Exchange Act Rule 13a-14

49. The Commission realleges and incorporates by reference ¶¶ 1 through 36 above.

50. Defendant certified the quarterly report filed by SeraCare on Form 10-Q for the quarter ended March 30, 2005 that, among other things, he reviewed the report and, based on his knowledge, the report (i) did not contain any untrue statement of material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading and (ii) included financial statements and other financial information which fairly presented, in all material respects, SeraCare's financial condition, results of operations and cash flows.

51. By engaging in the conduct alleged above, defendant violated, and unless restrained and enjoined will continue to violate, Exchange Act Rule 13a-14, 17 C.F.R. § 240.13a-14.

FIFTH CLAIM FOR RELIEF

FALSE OR MISLEADING STATEMENTS TO ACCOUNTANTS

Violations of Exchange Act Rule 13b2-2

52. The Commission realleges and incorporates by reference ¶¶ 1 through 36 above.

53. Defendant, directly or indirectly, (i) made, or caused to be made, materially false or misleading statements or (ii) omitted to state, or caused others to omit to state, material facts necessary in order to make statements made, in light of the circumstances under which they were made, not misleading, to an accountant in connection with an audit, review or examination of financial statements or the preparation or filing of a document or report required to be filed with the Commission.

1 54. By engaging in the conduct alleged above, defendant violated, and
2 unless restrained and enjoined will continue to violate, Exchange Act Rule 13b2-2,
3 17 C.F.R. § 240.13b2-2.

4 **PRAYER FOR RELIEF**

5 WHEREFORE, the Commission respectfully requests that the Court:

6 (a) Issue findings of fact and conclusions of law that defendant
7 committed the violations alleged and charged herein.

8 (b) Issue judgments, in a form consistent with Fed. R. Civ. P. 65(d),
9 permanently enjoining defendant and his agents, servants, employees, attorneys,
10 and those persons in active concert or participation with him, who receive actual
11 notice of the order by personal service or otherwise, from violating Section
12 17(a)(2) and (3) of the Securities Act and Rules 13a-14, 13b2-1, and 13b2-2 of the
13 Exchange Act, and aiding and abetting violations of Section 13(a) and 13(b)(2)(A)
14 of the Exchange Act and Rules 12b-20 and 13a-13 thereunder.

15 (c) Order defendant to pay civil penalties under Section 20(d) of the
16 Securities Act, 15 U.S.C. § 77t(d), and Section 21(d)(3) of the Exchange Act, 15
17 U.S.C. § 78u(d)(3).

18 (d) Retain jurisdiction of this action in accordance with the principles of
19 equity and the Federal Rules of Civil Procedure in order to implement and carry
20 out the terms of all orders and decrees that may be entered, or to entertain any
21 suitable application or motion for additional relief within the jurisdiction of this
22 Court.

23 (e) Grant such other and further relief as this Court may determine to be
24 just and necessary.

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1 DATED: July 31, 2008

Respectfully submitted,

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4 WILLIAM G. BERRY
5 Attorneys for Plaintiff
6 Securities and Exchange Commission
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ORIGINAL

JS 44 (Rev. 11/04)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS
U.S. SECURITIES AND EXCHANGE COMMISSION

(b) County of Residence of First Listed Plaintiff _____
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)
William G. Berry, Esq. (323) 965-3998
U.S. Securities and Exchange Commission

DEFENDANTS
JERRY L. BURDICK

08 JUL 31 PM 2:40
CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
County of Residence of First Listed Defendant Los Angeles County
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)
David J. Schindler, Esq.
Latham & Watkins, LLP

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☒ 1 U.S. Government Plaintiff
☐ 2 U.S. Government Defendant
☐ 3 Federal Question (U.S. Government Not a Party)
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

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|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| | PTF | DEF | | PTF | DEF |
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	FORFEITURE/PENALTY <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	BANKRUPTCY <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark	OTHER STATUTES <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Acts <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
☐ 2 Removed from State Court
☐ 3 Remanded from Appellate Court
☐ 4 Reinstated or Reopened
☐ 5 Transferred from another district (specify) _____
☐ 6 Multidistrict Litigation
☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
15 U.S.C. § 77q(a), 15 U.S.C. § 78m(a), 15 U.S.C. § 78m(b)(2)(A), 17 C.F.R. §§ 240.12b-20, 240.13a-13,

Brief description of cause:

The complaint alleges violations of the antifraud provisions of the federal securities laws.

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE _____

DOCKET NUMBER _____

DATE

7-31-08

SIGNATURE OF ATTORNEY OF RECORD

William G. Berry

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

CP

JS 44 Reverse (Rev. 11/04)

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44**Authority For Civil Cover Sheet**

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

I. (a) Plaintiffs-Defendants. Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

(b) County of Residence. For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)

(c) Attorneys. Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

II. Jurisdiction. The basis of jurisdiction is set forth under Rule 8(a), F.R.C.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.

United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.

United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.

Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.

Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; federal question actions take precedence over diversity cases.)

III. Residence (citizenship) of Principal Parties. This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

IV. Nature of Suit. Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerks in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.

V. Origin. Place an "X" in one of the seven boxes.

Original Proceedings. (1) Cases which originate in the United States district courts.

Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.

Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.

Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.

Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.

Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.

Appeal to District Judge from Magistrate Judgment. (7) Check this box for an appeal from a magistrate judge's decision.

VI. Cause of Action. Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553
Brief Description: Unauthorized reception of cable service

VII. Requested in Complaint. Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.

Demand. In this space enter the dollar amount (in thousands of dollars) being demanded or indicate other demand such as a preliminary injunction.

Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

VIII. Related Cases. This section of the JS 44 is used to reference related pending cases if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.